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Alpharetta, GA 30022

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Jaworski)
Application No. 10/083,749) **DECISION ON PETITION TO MAKE**
Filed: February 25, 2002) **SPECIAL UNDER M.P.E.P. §708.02(II):**
For: SYSTEM OF TESTING THE) **INFRINGEMENT**
UPSTREAM CABLE MODEM)
CHANNEL)

This is a decision on the petition, filed April 20, 2004, under 37 C.F.R. 1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. 1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. 1.17(h) and a statement under 37 C.F.R. 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that: (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Applicant *must provide* one copy of each of the *references deemed most closely related* to the subject matter encompassed by the claims [*emphasis added*].

Applicant's submission is deficient because no references have been submitted. Note, the petition filed April 20, 2004 merely sets forth a copy of the literature page of the alleged infringing device. Accordingly, the Petition is **DISMISSED**.

The application file will be returned to the examiner's docket and examined in its proper turn based on its effective filing date.

If petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at (703) 308-0885.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

blj: 7/1/04